

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

GARY WAYNE WARNER,	)	
ID #861634,	)	
	)	
Petitioner,	)	
	)	
VS.	)	CIVIL ACTION NO.
	)	
DIRECTOR, Texas Department of	)	3:22-CV-2459-G -BH
Criminal Justice, Correctional Institutions	)	
Division,	)	
	)	
Respondent.	)	

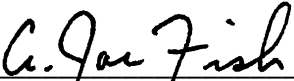
**ORDER ACCEPTING FINDINGS AND**  
**RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the court is of the opinion that the Findings, Conclusions, and Recommendation of the Magistrate Judge are correct, and they are accepted as the Findings and Conclusions of the court. For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the Petition for Federal Writ of Habeas Corpus 28 U.S.C. §§ 2241(a) & 2241(C)(3), received on May 24, 2022 (docket entry 1), is **CONSTRUED** as a successive petition for a writ of habeas corpus under 28 U.S.C.

§ 2254 and will be **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997), by separate judgment.\*

**SO ORDERED.**

January 9, 2023.

  
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A. JOE FISH  
Senior United States District Judge

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\* A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. See *In re Garrett*, 633 Fed. Appx. 260, 261 (5th Cir. 2016) (per curiam); *United States v. Fulton*, 780 F.3d 683, 686 (5th Cir.), *cert. denied*, 577 U.S. 967 (2015).